BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

IN THE CONSOLIDATED MATTERS OF:

MORAGA SCHOOL DISTRICT,

v.

PARENT ON BEHALF OF STUDENT,

OAH CASE NUMBER 2020010266

and

PARENT ON BEHALF OF STUDENT,

v.

MORAGA SCHOOL DISTRICT

OAH CASE NUMBER 2020030039

ORDER GRANTING MOTION TO CONSOLIDATE AND TO CONTINUE AND DESIGNATING DISTRICT'S CASE PRIMARY

MARCH 9, 2020

On January 9, 2020, Moraga School District filed with the Office of Administrative Hearings, called OAH, a Request for Due Process Hearing in OAH case number 2020010266, naming Student. Moraga's Case is scheduled for hearing beginning March 17, 2020.

On February 28, 2020, Student filed a Request for Due Process Hearing in OAH case number 2020030039, naming Moraga. Student's Case is scheduled for hearing beginning April 21, 2020.

On February 28, 2020, Student filed a Motion to Consolidate the two matters and to continue the due process hearing dates set in Moraga's Case and proceed on the hearing schedule set in Student's Case.

On March 4, 2020, Moraga filed an opposition to consolidation on the grounds that it would be prejudiced by a delay and that consolidation would unnecessarily expand the hearing issues. Moraga further argues that the sole common assessment claim will be finally adjudicated in Moraga's Case.

CONSOLIDATION

No statute or regulation specifically provides a standard to be applied in deciding a motion to consolidate special education cases. However, OAH will generally consolidate matters that involve the same parties, a common question of law and/or fact, and when consolidation of the matters furthers the interests of judicial economy by saving time or preventing inconsistent rulings. (See Gov. Code, § 11507.3, subd. (a) [administrative proceedings may be consolidated if they involve a common question of law or fact]; Code of Civ. Proc., § 1048, subd. (a) [same applies to civil cases].)

Moraga's sole issue for hearing is whether its December 2018 and September 2019 multidisciplinary assessments are legally compliant such that it need not fund Parent's request for independent educational evaluations. Student's Case places at issue the appropriateness of these same assessments and whether they were sufficiently comprehensive to identify Student's needs. Student raises one additional issue as to Moraga's alleged failure to implement the September 2018 individualized education program.

Here, both cases involve a common question of law or fact, specifically, the appropriateness of Moraga's December 2018 and September 2019 multidisciplinary assessments. As such, consolidation is warranted. Consolidation will further the interests of judicial economy because both cases involve the same parties, and many of the same witnesses will be required to testify in each proceeding. Each matter will also involve the introduction of many of the same documents. Moraga's arguments do not override the grounds for consolidation. Accordingly, consolidation is granted.

When consolidating cases, OAH designates the statutory timelines applicable to the consolidated matters to be controlled by one of the cases. Here, the statutory timeline shall be controlled by Moraga's Case, OAH case number 2020010266.

CONTINUANCE

A due process hearing must be conducted, and a decision rendered, within 45 days of receipt of the due process notice, unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. OAH considers all relevant facts and circumstances in determining whether good cause exists to grant an extension. (See Cal. Rules of Court, rule 3.1332(d).)

Student's request to continue the hearing schedule for Moraga's Case demonstrates good cause in light of this Order granting consolidation. The consolidated matters shall now proceed on the hearing schedule set in Student's Case.

ORDER

1. Student's Motion to Consolidate is granted.
2. Moraga's Case is designated as the Primary Case.
3. Student's Motion to Continue is granted. All dates previously set in Moraga's Case, OAH Case Number 2020010266 are vacated. The consolidated matters shall proceed on the dates set in Student's Case. The Prehearing Conference in the consolidated cases shall be held on April 13, 2020, at 10:00 a.m. The Due Process Hearing in the consolidated cases shall be held on April 21 through 23, 2020. The hearing shall begin at 9:30 a.m. on the first day, and 9:00 a.m. on all other days, and shall continue day to day as needed, at the discretion of the Administrative Law Judge.
4. The 45-day timeline for issuance of the decision in the consolidated cases shall be based on the date of the filing of the complaint in Moraga's Case, OAH case number 2020010266.

IT IS SO ORDERED.

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Theresa Ravandi
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Theresa Ravandi
Administrative Law Judge
Office of Administrative Hearings